

SANDRA D. FRELIX, ESQ. (0421)
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Attorney for Plaintiff

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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MARIA JACKSON,

Index No. 08 CV 1064 (LAK)

Plaintiff,

MOTION AND NOTICE OF
MOTION TO REMAND
ACTION TO STATE COURT

-against-

THE SCOTTS COMPANY,

Defendant.

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PLEASE TAKE NOTICE that on a date to be determined by this Court, or as soon thereafter as counsel can be heard, plaintiff will move the Court, at Courtroom No. 12D, United States Courthouse, 500 Pearl Street, New York, New York 10007, for an order remanding this action to state court. This motion and attached affidavit is based on 28 U.S.C.A. §1445(c) which states the following:

1. "A civil action in any State court arising under the workmen's compensation laws of such State may not be removed to any district court of the United States."
2. The plaintiff in this case has claims of disparate treatment and retaliation against the defendant arising under New York state worker's compensation laws.
3. No other basis for federal jurisdiction exists or has been claimed.

4. This Court therefore has no original jurisdiction over this action.

Plaintiff will also move this Court for an order directing defendant to pay all costs plaintiff has incurred as a result of defendant's removal of this action.

Dated: New York, New York
February 20, 2008

Respectfully submitted,

SANDRA D. FRELIX, ESQ.

By: 

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ATTORNEYS FOR DEFENDANT

SANDRA D. FRELIX, ESQ. (0421)
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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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Index No. 08 CV 1064 (LAK)

Plaintiff,

ORDER GRANTING MOTION
TO REMAND
ACTION TO STATE COURT

-against-

THE SCOTTS COMPANY,

Defendant.

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A hearing will be held at the discretion of this Court on the plaintiff's motion to remand and it appearing to the Court that the Court has no jurisdiction over this action, it is ORDERED that:

1. Plaintiff's motion to remand is granted.
2. This action is remanded to the Supreme Court of the State of New York
County of Bronx.
3. Plaintiff is awarded all costs incurred as a result of the defendant's
removal of this action from state court.

Dated: February , 2008
New York, New York

The Honorable Lewis A. Kaplan
United States District Judge